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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/718,614  | 11/24/2003  | Stephen R. Glaser    | GLA-101-CON         | 1603             |
| 24395   | 7590        | 09/07/2006           | EXAMINER            |                  |
| WILMER CUTLER PICKERING HALE AND DORR LLP<br>1875 PENNSYLVANIA AVE., NW<br>WASHINGTON, DC 20004 |             |                      | MANUEL, GEORGE C    |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |

3762

DATE MAILED: 09/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/718,614

**Applicant(s)**

GLASER, STEPHEN R.

**Examiner**

George Manuel

**Art Unit**

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 21, 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over *MANUAL for the STYCAR VISION TESTS*, Mary D. Sheridan, NFER PUBLISHING COMPANY LIMITED, Thames Avenue, Windsor, Berks, England, 1969 in view of Andera et al (US 5,216,458).

Sheridan discloses positioning a display medium comprising an optotype chart at varying distances from a subject child. Page 7 teaches the child uses a key-card chart to match the letter indicated on the optotype chart. Pages 7-8 further teach occluding an eye to screen for amblyopia.

Andera et al teach sequentially presenting a series of optotypes having patterns that vary in their spatial frequencies to provide a measure of both contrast sensitivity and spatial frequency response for each patient tested.

One of ordinary skill in the art would have found it obvious to combine the teaching of Andera et al with the disclosure of Sheridan to successively present the optotypes of Sheridan to the child because the teaching of Andera et al applies to similar optotypes as those disclosed in Sheridan for a similar type of eye examination.

Claims 22-28, 30-32 and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over *MANUAL for the STYCAR VISION TESTS*, Mary D. Sheridan, NFER PUBLISHING COMPANY LIMITED, Thames Avenue, Windsor, Berks, England, 1969 in view of Waltuck et al '981 and further in view of Andera et al (US 5,216,458).

Sheridan discloses all of the claimed features except for an LCD monitor and a remote control unit for changing the displayed optotypes.

Waltuck et al teach using an LCD monitor for displaying optotypes and using a remote control unit for changing the optotype in an eye examination procedure.

One of ordinary skill in the art would have found it obvious to use the LCD monitor and remote control teaching of Waltuck et al for displaying the chart as taught by Sheridan because the LCD monitor and remote control teaching apply to similar visual acuity testing and the system of Waltuck et al is intended to replace charts of the type disclosed in the Sheridan reference. One of ordinary skill in the art would have further found it obvious to add the feature of successively displaying the optotypes

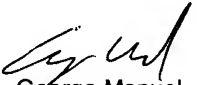
because as discussed above, Andera et al suggest such a feature provides a measure of both contrast sensitivity and spatial frequency response for each patient tested and the optotypes of Sheridan and Waltuck et al lend themselves to being displayed successively for that purpose.

***Response to Arguments***

Applicant's arguments with respect to claims 21-38 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Manuel whose telephone number is (571) 272-4952.

  
George Manuel  
Primary Examiner  
Art Unit: 3762